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U.S. DISTRICT COURT  
N.D. OF ALABAMAIn the United States District Court  
For the Northern District of Alabama

CV-06-P-2013-M

LAVARITUS Smith # 184186  
Plaintiff(Enter above the full name(s) of the  
plaintiff(s) in this action)Jury Trial DemandedDOUGLAS ZUSPAN et al.  
Defendants(Enter above full name(s) of the  
defendant(s) in this action)

## I. Previous lawsuits

- A. Have you begun other lawsuits in state or federal court(s) dealing with the same facts involved in this action or otherwise relating to your imprisonment? Yes (☒) No (☐)
- B. If your answer to A. is "yes", describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuit(s) on another piece of paper, using the same outline.)

## 1. Parties to this previous lawsuit

Plaintiff(s): LAVARITUS SmithDefendant(s): Ralph Hooks, et al.

## 2. Court (if Federal Court, name the district; if State Court, name the county)

Northern District of Alabama3. Docket Number 4:03-cv-1499-RBP-RRA4. Name of judge to whom case was assigned Judge Robert B. Propst

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

Dismissed on August 17 2006 with prejudice.  
Notice of appeal filed September 14 2006

6. Approximate date of filing lawsuit June 20, 2003

7. Approximate date of disposition August 17, 2006

II. Place of present confinement St. Clair Correctional Facility

- A. Is there a prisoner grievance procedure in this institution?

Yes ( ) No (✓)

- B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes ( ) No (✓)

- C. If your answer is YES:

1. What steps did you take? N/A

2. What was the result? N/A

- D. If your answer is NO, explain why not? Alabama no longer has a  
grievance procedure.

III. Parties

In item A below, place your name(s) in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

- A. Name of plaintiff(s) LAVARITUS SMITH #184186

Address 1000 St. Clair Rd., Springville, Alabama 35146

In item B. below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use item C for the names, positions, and places of employment of any additional defendants.

- B. Defendant DOUGLAS ZUSPAN  
 is employed as A CORRECTIONAL OFFICER  
 at ST. CLAIR CORRECTIONAL FACILITY
- C. Additional Defendants Ralph Hooks, AS WARDEN of ST. CLAIR CORRECTIONAL FACILITY; A.W. GARRETT, AS ASST. WARDEN of ST. CLAIR CORRECTIONAL FACILITY; WASHINGTON, DAVIS, BLACKMON AND Shirkey, AS CORRECTIONAL OFFICERS AT ST. CLAIR CORR. FACILITY.

#### IV. Statement of Claim

State here, as briefly as possible, the FACTS of your case. Describe how each defendant is involved. Include, also, the names of other persons involved, dates and places. *Do not give any legal arguments or cite any cases or statutes.* If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheet, if necessary.

#### CLAIM I EXCESSIVE FORCE

1) ON the 29th of JANUARY 2006 IN the segregation unit AT ST. CLAIR CORRECTIONAL FACILITY IN Springville, Alabama, the plaintiff SMITH WAS ESCORTED TO sick-call screening by defendants WASHINGTON AND DAVIS.

2) Nurse Hackworth was the screening nurse and in the room with her was defendant ZUSPAN.

3) After plaintiff was examined and was leaving out of the room, defendant ZUSPAN stated, "He's nothing but a punk, always signing up for sick-call."

4) Plaintiff asked defendant ZUSPAN, "Why do I have to be all that?" Defendant ZUSPAN then jumped up and

got in plaintiff's face, asking him what he said. When plaintiff repeated his question, defendant Zuspan grabbed plaintiff, pushing him face forward into the wall and told plaintiff to put his hands on the wall.

5) Plaintiff stood against the wall and asked how he could comply when he was handcuffed behind his back.

(see attached sheets)

V. RELIEF

State briefly *exactly* what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

1) Declare that the acts and omissions described herein violated plaintiff's rights under the Constitution and laws of the United States.

2) Enter judgment in favor of plaintiff for nominal, punitive and compensatory damages, as allowed by law, against each defendant, jointly and severally.

3) Other such additional relief as this court may deem just and proper.

"I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10-3-06  
(date)

Saikatius Smith 184186  
Signature(s)

6) Defendant ZUSPAN became madder and slammed plaintiff's forehead into the wall by the back of his neck, applying enormous force with defendant's other hand, grinding plaintiff's forehead into the wall, maliciously intending to harm and injure plaintiff.

7) Plaintiff was handcuffed behind his back and shackled with leg irons and never resisted nor presented any threat to security.

8) Plaintiff was later taken to the infirmary for a body chart.

9) Plaintiff suffered swelling to his forehead and scratches around his neck.

### CLAIM II Failure To Intervene

10) Defendants Washington, Davis, Blackman and Shirkey witnessed defendant ZUSPAN mistreat the plaintiff in an unreasonable and malicious manner and failed in their duty to intervene and protect plaintiff from abuse.

### CLAIM III Failure To Train, Direct or Supervise

11) Upon information and belief, defendants Hooks and Garrett knew or should have known that defendant ZUSPAN had on prior occasions engaged in

ASSAULTIVE BEHAVIOR AGAINST INMATES FOR LITTLE OR NO CAUSE AND SUBSEQUENTLY DEMONSTRATED AN INABILITY TO CONTROL HIS TEMPER AND PHYSICAL RESPONSES.

12) UPON INFORMATION AND BELIEF, DEFENDANTS HOOKS AND GARRETT HAVE TAKEN LITTLE OR NO ACTION AGAINST THEIR SUBORDINATES WHEN EXCESSIVE FORCE IS USED AND THEREFORE CONDONED AN ATMOSPHERE WHERE OFFICERS FEEL IT IS PERMISSABLE TO ROUGH AN INMATE UP WHEN THEY FEEL LIKE IT.

13) DUE TO THE DEFENDANTS FAILURE TO TRAIN, DISCIPLINE OR SUPERVISE, PLAINTIFF SUFFERED PAIN AND INJURY.

#### CLAIM IV RETALIATION

14) DUE TO PLAINTIFF TELLING DEFENDANT ZUSPAN THAT HE WAS GOING TO FILE A LAWSUIT AGAINST HIM FOR PHYSICALLY ABUSING HIM, DEFENDANT ZUSPAN WROTE PLAINTIFF A DISCIPLINARY ON THE 2ND OF FEB., 2006, FOR 'FAILURE TO OBEY A DIRECT ORDER.'